

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11
12
13 Plaintiff,
14 v.
15
16 Defendants.
17
18

} Case No.
} ORDER SETTING RULE 26(f)
} SCHEDULING CONFERENCE
} DATE:
} TIME:
} PLACE:
}

19 This case has been randomly assigned to Judge Arthur Nakazato pursuant to
20 General Order No. 11-06 and all parties have filed written consents to his exercise of civil
21 trial jurisdiction for all purposes, including trial and entry of final judgment pursuant to
22 28 U.S.C. § 636(c) and Federal Rules of Civil Procedure (“Rule”) 73.

23 This matter is set for a scheduling conference on the above date. The conference
24 will be held pursuant to Rule 16(b). The parties are reminded of their obligations under
25 Rule 26(a)(1) to disclose information (without awaiting a discovery request) and under
26 Rule 26(f) to confer on a discovery plan not later than twenty-one (21) days prior to the
27 scheduling conference and to file a Joint Rule 26(f) Report not later than fourteen (14)
28 days after they confer. Failure to comply with the following requirements or to cooperate

1 in the preparation of the Joint Rule 26(f) Report may lead to the imposition of sanctions.

2 **Unless there is a likelihood that upon motion by a party the Court would order**
3 **that any or all discovery is premature, it is advisable for counsel to begin to conduct**
4 **discovery actively before the Scheduling Conference. At the very least, the parties**
5 **shall comply fully with the letter and spirit of Rule 26(a) and thereby obtain and**
6 **produce most of what would be produced in the early stage of discovery.**

7 **1. Joint Rule 26(f) Report.**

8 The Joint Rule 26(f) Report, which shall be filed not later than one week before the
9 scheduling conference, shall be drafted by plaintiff (unless the parties agree otherwise),
10 but shall be submitted and signed jointly. “Jointly” contemplates a single report, regardless
11 of how many separately-represented parties there are. The Joint Rule 26(f) Report shall
12 report on all matters enumerated below, which include those required to be discussed by
13 Rule 26(f) and Local Rule 26:

- 14 **a. Synopsis:** a short synopsis (not to exceed two pages) of the main claims,
15 counterclaims, and/or affirmative defenses.
- 16 **b. Legal issues:** a brief description of the key legal issues.
- 17 **c. Damages:** the realistic range of provable damages.
- 18 **d. Insurance:** whether there is insurance coverage, the extent of coverage, and
19 whether there is a reservation of rights.
- 20 **e. Motions:** a statement of the likelihood of motions seeking to (i) add other
21 parties or claims or (ii) file amended pleadings or (iii) transfer venue.
- 22 **f. Discovery and experts:** pursuant to Rule 26(f), state what, if any, changes
23 in the disclosures under Rule 26(a) should be made; the subjects on which
24 discovery may be needed and whether discovery should be conducted in
25 phases or otherwise be limited; what discovery has been conducted thus far;
26 whether applicable limitations should be changed or other limitations
27 imposed; and whether the Court should enter other orders. Please state how
28

many depositions each side will conduct. Also discuss the proposed time of expert witness disclosures under Rule 26(a)(2).

- g. **Dispositive motions:** a description of the issues or claims that any party believes may be determined by motion for summary judgment or motion *in limine*.
- h. **Settlement and settlement mechanism:** a statement of what settlement discussions and/or written communications have occurred (specifically excluding any statement of the terms discussed) and a statement pursuant to Local Rule 16-15.4 selecting a settlement mechanism under that rule.
- i. **Trial estimate:** a realistic estimate of the time required for trial and whether trial will be by jury or by court. Each side should specify (by number, not by name) how many witnesses it contemplates calling. If the time estimate for trial given in the Rule 26(f) Joint Report exceeds eight court days, counsel shall be prepared to discuss in detail the estimate.
- j. **Timetable:** complete the Presumptive Schedule of Pretrial Dates form attached as Exhibit A to this Order and attach it to the Rule 26(f) Report. Submission of a completed Exhibit A is mandatory. The current entries in the “Weeks Before Trial” column merely reflect what the Court believes are appropriate for many, if not most, cases; those entries are not necessarily applicable to this case, and the form is designed to enable counsel to request the Court to set different last dates by which the key requirements must be completed. Each side should write in the month, day and year it requests for each event. *E.g.*, for the expert discovery cut-off it might be “10/7/02” for plaintiff and “10/28/02” for defendant, if they cannot agree. At the conference, the Court will review this form with counsel. Each entry proposing dates shall fall on a Monday, except the trial date which is a Tuesday. In appropriate cases the Court will order different dates after it

1 hears from Counsel. The proposed non-expert and expert discovery cut-off
2 date means: the last day by which all depositions must be completed and
3 responses to all previously-served written discovery must be provided. The
4 proposed cut-off date for motions means: the last date on which motions may
5 be heard, not noticed.

6 **k. Other issues:** a statement of any other issues affecting the status or
7 management of the case (*e.g.*, unusually complicated technical or
8 technological issues, disputes over protective orders, extraordinarily
9 voluminous document production, non-English speaking witnesses,
10 discovery in foreign jurisdictions, etc.).

11 **l. Conflicts:** for conflict purposes, corporate parties must identify all
12 subsidiaries, parents and affiliates.

13 **m. Patent cases:** propose dates and methodology for claim construction and
14 *Markman* hearings. The Court requires the parties to file concurrent opening
15 briefs and concurrent reply briefs for the hearing. The Court intends to
16 follow the rules for patent cases which have been adopted by the Northern
17 District of California.

18 The Joint Rule 26(f) Report should set forth the above enumerated information
19 under section headings corresponding to this Order.

20 **2. Scheduling Conference.**

21 Scheduling Conferences will be held in the Ronald Reagan Building, 411 West
22 Fourth Street, Courtroom 6B, Santa Ana. Counsel shall comply with the following:

- 23 a. Participation. The lead trial attorney must attend the Scheduling
24 Conference, unless excused for good cause shown in advance of the
25 Scheduling Conference.
- 26 b. Continuance. A continuance of the Scheduling Conference will be
27 granted only for good cause.
28

1 **3. Protective Orders.**

2 If you seek a protective order, propose it to opposing counsel before the Scheduling
3 Conference, if at all possible.

4 **4. Notice to be Provided by Counsel.**

5 Plaintiff's counsel or, if plaintiff is appearing *pro se*, defendant's counsel, shall
6 provide this Order to any parties who first appear after the date of this Order and to parties
7 who are known to exist but have not yet entered appearances.

8 **5. Disclosures to Clients.**

9 Counsel are ordered to deliver to their respective clients a copy of this Order and
10 of the Court's Scheduling and Case Management Order, which contains the schedule that
11 the Court sets at the Scheduling Conference.

12 **6. Court's Website.**

13 Copies of this and all other orders of this Court that may become applicable to this
14 case are available on the Central District of California website, at
15 "www.cacd.uscourts.gov," under "Judge's Procedures and Schedules." The Local Rules
16 are available on the website.

17
18
19 DATED:

ARTHUR NAKAZATO
UNITED STATES MAGISTRATE JUDGE

**JUDGE ARTHUR NAKAZATO
SCHEDULE OF TRIAL AND PRETRIAL DATES**

Matter	Time	Weeks before trial	Plaintiff's Request (fill in specific date)	Defendants' Request (fill in specific date)	Court Order
Trial (jury) (court) Estimated length: _____ days	8:30 a.m. (Tuesdays)				
[Jury trial] File Trial Brief		-1			
[Court trial] File Findings of Fact and Conclusions of Law and Summaries of Direct Testimony		-1			
Final Pretrial Conference; Hearing on Motions in Limine; File Agreed Upon Set of Jury Instructions, Verdict Forms and Joint Statement re Disputed Instructions and Verdict Forms; File Proposed Voir Dire Qs Lodged and Agreed-to Statement of Case	11:00 a.m. (Tuesdays)	-2			
Lodge Pretrial Conf. Order; File Memo of Contentions of Fact and Law; Exhibit List, Witness List; Status Report re Settlement		-3			
Last day for hand-serving motions in limine		-6			
Last day for hearing motions	1:30 p.m. (Thursdays)	-7			
Last day for hand serving motions and filing (other than motions in limine)		-11			
Non-expert Discovery cut-off		-15			

ADDITIONAL MATTERS TO BE DETERMINED AT SCHEDULING CONFERENCE

L.R. 16-14 Settlement Choice: (1) CT/MJ (2) Atty (3) Outside ADR (4) Settlement Panel

Expert discovery cut-off					
Rebuttal Expert Witness Disclosure					
Opening Expert Witness Disclosure [See Rule 26(a)(2)]					
Last day to conduct Settlement Conference					
Last day to amend pleadings or add parties					